

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAFAYETTE-OPELOUSAS DIVISION

LEAM DRILLING SYSTEMS, INC. and
LIBERTY MUTUAL INSURANCE
COMPANY

CIVIL ACTION NO.
6:10-cv-01698

VERSUS

JUDGE DOHERTY

PETROHAWK ENERGY CORPORATION
and CHUBB & SON, A DIVISION OF FEDERAL
INSURANCE COMPANY

MAGISTRATE HILL

MEMORANDUM IN RESPONSE TO
REPORT AND RECOMMENDATION

The plaintiffs herein Leam Drilling Systems, Inc. and Liberty Mutual Insurance Company agree with the January 5, 2011 Report and Recommendation of the Honorable Magistrate Judge C. Michael Hill relating to the Motion to Dismiss filed by Chubb & Son seeking dismissal of all claims against it. For the following reasons, plaintiffs agree with Magistrate's recommendation that claims against Chubb & Son be dismissed *without prejudice*.

Chubb & Son, A Division of Federal Insurance Company, was originally named as a defendant in the Complaint for Declaratory Judgment. This was based upon the demand letter sent by "Richard Rogers, Sr. Litigation Examiner, Chubb & Son, A Division of Federal

Insurance Company” to Leam Drilling Systems, Inc. for contractual defense and indemnity of Petrohawk Energy Corporation on September 2, 2010. Plaintiffs subsequently moved to amend their complaint seeking to substitute Federal Insurance Company as a defendant in place and instead of Chubb & Son, based upon representation by counsel for Petrohawk Energy Corporation and Chubb & Son, A Division of Federal Insurance Company, that Federal Insurance Company was Petrohawk’s insurer, and not Chubb & Son. Plaintiffs have requested a copy of the applicable insurance policy from the attorney representing the defendants Petrohawk Energy Corporation, Chubb & Son, A Division of Federal Insurance Company and Federal Insurance Company, and have now propounded written discovery requesting the applicable policy in order to confirm the role of Chubb & Son in the instant litigation and to confirm that Federal Insurance Company is the proper insurer as represented to plaintiffs by defendants herein.

Therefore, plaintiffs respectfully submit that if the Court dismisses the claim against Chubb & Son, that it do so without prejudice as recommended by Magistrate Hill, until a determination can be made regarding Chubb & Son’s role on behalf of Petrohawk and until Federal Insurance Company can be confirmed as the proper insurer.

Respectfully submitted,

DAIGLE RAYBURN LLC

BY: /s/Susan A. Daigle
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**COUNSEL FOR LEAM DRILLING
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INSURANCE COMPANY**

C E R T I F I C A T E

I HEREBY CERTIFY that a copy of the above and foregoing has this date been filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent by operation of the court's electronic filing system to all parties that have consented to receive service electronically. I also certify that the above and foregoing has this date been forwarded by either facsimile, hand delivery, Federal Express, or U.S. Mail, postage prepaid and properly addressed to the non-CM/ECF participants on this the 18th day of January, 2011.

/s/Susan A. Daigle
SUSAN A. DAIGLE, #4459